

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALLROUNDS, INC.,
Plaintiff,

v.

ESHARES, INC., et al.,
Defendants.

Case No. [20-cv-07083-VC](#) (DMR)

**ORDER GRANTING UNOPPOSED
MOTION FOR ISSUANCE OF LETTER
ROGATORY**

Re: Dkt. No. 225

In this patent infringement and trade secrets case, Defendant eShares, Inc. d/b/a Carta, Inc. (“Carta”) filed a motion for issuance of a letter rogatory to the Supreme Court of British Columbia, Canada, requesting documents and an order to compel non-party Glenn Ballman to appear for a deposition. [Docket No. 225.]¹ Carta attests that it seeks discovery of Ballman, whom it determined is currently residing in or around Vancouver, British Columbia, regarding his work with Genesis Exchange System. Declaration of Gabriel M. Ramsey (“Ramsey Decl.”) ¶¶ 6, 18-23. Carta spoke with Ballman or his counsel about the requested documents and deposition on several occasions but as of March 11, 2022, Ballman appeared to object to providing any additional documents or sit for deposition. Ramsey Decl. ¶¶ 10-16.

On March 15, 2022, this court ordered the parties and Ballman to file a brief joint statement indicating whether Plaintiff AllRounds and/or Ballman oppose Carta’s motion. [Docket No. 228.] The court also directed Carta to serve the order on Ballman’s counsel. *Id.* According to the parties’ joint statement, Ballman’s attorney communicated that Ballman opposes Carta’s motion but that he has not been retained as counsel. [Docket No. 230.] Carta thereafter served the court’s March 15, 2022 order on Ballman but he did not respond. *Id.*

¹ This matter is appropriate for resolution by the undersigned in accordance with the presiding judge the Honorable Vince Chhabria’s referral of all discovery matters. [Docket No. 193.]

Although AllRounds initially indicated in the joint statement that it opposed Carta's motion, on March 28, 2022, AllRounds subsequently filed a statement of non-opposition. [Docket No. 232.] AllRounds states that although it does not oppose Carta's request to conduct discovery of Ballman through issuance of a letter rogatory, it objects to the extent Carta's motion would extend discovery beyond the deadlines set by Judge Chhabria in the amended scheduling order in this case.² Ballman did not file an opposition to Carta's motion, nor has he entered an appearance.

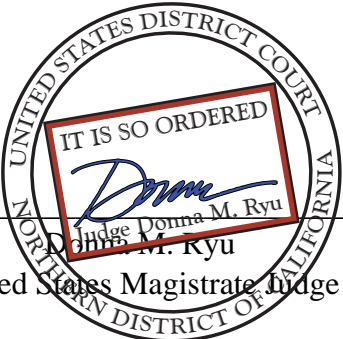
"A letter rogatory is the request by a domestic court to a foreign court to take evidence from a certain witness." *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 248 n.1 (2004); *see* 28 U.S.C. § 1781(b)(2); Fed. R. Civ. P. 28(b) ("A deposition may be taken in a foreign country . . . under a letter of request, whether or not captioned a 'letter rogatory.'") A letter rogatory may include a request for production of documents. *Barnes & Noble, Inc. v. LSI Corp.*, No. C-11- 02709-EMC-LB, 2012 WL 1808849, at *1 (N.D. Cal. May 17, 2012). "The Canada Evidence Act also specifically provides that a court outside of Canada may serve letters rogatory upon a Canadian court." *Asis Internet Servs. v. Optin Glob., Inc.*, No. C-05-05124-JCS, 2007 WL 1880369, at *3 (N.D. Cal. June 29, 2007) (citing R.S.C.1985, c. C-5, s. 46).

The court grants Carta's motion for issuance of the letter rogatory. Carta shall promptly resubmit the letter rogatory so that it is addressed from the undersigned rather than Judge Chhabria. Carta shall also update the signature block on the letter accordingly.

By granting the motion, the court takes no position on the effect that issuance of a letter rogatory to the Supreme Court of British Columbia may have on the discovery schedule in this case. Requests to extend the discovery deadline must be directed to Judge Chhabria.

IT IS SO ORDERED.

Dated: March 31, 2022



United States Magistrate Judge

² Per Judge Chhabria's minute order, fact discovery has closed as of March 25, 2022 and expert discovery closes on June 24, 2022, and no further extensions will be granted. [Docket No. 229.]